

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES of AMERICA

CASE NO. 3:07-CV-445

v.

(JUDGE CAPUTO)

LUIS ANTONIO DUTTON-MYRIE,

Defendant.

MEMORANDUM ORDER

Presently before the Court is Defendant Luis Antonio Dutton-Myrie's motion to suppress incriminating statements he made to authorities following his arrest. (Doc. 32.)

On November 7, 2007, Defendant, an illegal alien, was indicted for post-deportation reentry into the United States without the permission of the Secretary of Homeland Security in violation of 8 U.S.C. §§ 1326(a) and 1326(b)(2) and 6 U.S.C. §§ 202(3), 202(4), and 557. (Doc. 1.) Defendant filed the present motion to suppress on March 22, 2008. (Doc. 32.)

Defendant filed this motion to suppress statements he made to law enforcement officers because he was not advised of his rights under the Vienna Convention on Consular Relations ("VCCR"), a treaty signed by the United States of America. Defendant argues that the Government violated sections of the VCCR which require that non-United-States citizens be advised that they are allowed to communicate with their consulate upon arrest and that their consulate be notified of the arrest in a timely manner. See Vienna Convention on Consular Relations, art. 36, ¶¶ 1(b) and 1(c), Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261. Analogizing the VCCR to his *Miranda* rights, Defendant

claims that because he was not advised these rights, his statements should be suppressed.

Defendant's argument, however, is contrary to precedent. Suppression of statements due to a violation of Article 36 of the VCCR is a disproportionate and inappropriate remedy and is not provided for by law. *See Sanchez-Llamas v. Oregon*, 548 U.S. 331 (2006); *Malave v. Brooks*, Civ. A. No. 07-1990, 2008 WL 513729, at *3 (E.D. Pa. Feb. 22, 2008). Because this is a question of whether the law provides a remedy for Defendant and not a question of fact, a hearing for Defendant's motion to suppress is not warranted in this case. Therefore, Defendant's motion to suppress will be denied.

NOW, this 24 day of July, 2008, **IT IS HEREBY ORDERED THAT**
Defendant's motion to suppress is **DENIED**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge